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Paper No. 18

AXCESS INC.
3208 COMMANDER DRIVE
CARROLLTON, TX 75006

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OFFICE OF PETITIONS

In re Application of :
Griebenow, Allan R. :
Application No. 09/469,644 :
Filed: December 22, 1999 :
Attorney Docket No. 065446.0128 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 31, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed February 26, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 27, 2003. A Notice of Abandonment was mailed November 4, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

The instant petition lacks none of the above items.

However, the instant petition appears to be on behalf of the assignee. Accordingly, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner;

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

(2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; **(3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee;** and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. The 3.73(b) statement included with the instant petition does not give the petitioner authorization to act on behalf of the assignee, consequently not meeting the third requirement listed above. An additional 37 CFR 3.73(b) statement is enclosed for petitioner's convenience.

The Power of Attorney and Correspondence Address Indication Form submitted with the instant petition on March 31, 2004, is hereby not accepted. The form requests that the correspondence address be changed to the address associated with Customer Number 05073, *as well as* the current address of record. The Office will not engage in double correspondence except as deemed necessary by the Commissioner. If more than one correspondence address is specified, the Office will establish one as the correspondence address. Accordingly, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
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Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

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Arlington, VA 22202

The centralized facsimile number is (703) 872-9306.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.



Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: PTO/SB/96 – Statement under 3.73(b)